

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 3033
)	
MICHAEL F. GINDER, D.O.)	FINDINGS OF FACT,
Holder of License No. 0959 for the)	CONCLUSIONS OF LAW
practice of osteopathic medicine)	AND ORDER FOR PROBATION
in the State of Arizona.)	
_____)	

INTRODUCTION

On January 29, 2002, the Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") received a complaint from patient J.B. concerning Michael F. Ginder, D.O., (hereafter "Respondent"). On February 4, 2002, Respondent was notified of this complaint, and on February 12, 2002, the Board received Respondent's answer to the complaint.

On January 24, 2004, the Board reviewed the complaint at a Board meeting and voted to conduct an Investigative Hearing on this matter, pursuant to A.R.S. § 32-1855. Respondent was notified that the Investigative Hearing was set for March 27, 2004. On or about March 22, 2004, Mr. Conrad Hernandez, Esq., notified the Board that he would be representing Respondent, and requested a continuance of the Investigative Hearing. The request was granted, and the Investigative Hearing was then scheduled for May 8, 2004.

On May 8, 2004, pursuant to its statutory authority at A.R.S. § 32-1855(E), the Board held an Investigative Hearing. During the course of these proceedings, Respondent was present and was represented by legal counsel. Prior to concluding the hearing, the Board continued it on their own motion to allow Mr. Hernandez an opportunity to research a prior non-disciplinary action (Letter of Concern) issued to Respondent. The conclusion of the Investigative Hearing was set for June 19, 2004.

At the request of Respondent's attorney, the Investigative Hearing was continued until July 31, 2004.

On July 31, 2004, pursuant to its statutory authority at A.R.S. § 32-1855(E), the Board held and concluded the Investigative Hearing. Respondent was present and represented by legal counsel. Based upon the testimony presented, discussion, and documentary evidence submitted, the Board issued the following Findings of Fact, Conclusions of Law and Order.

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. § 32-1800, *et seq.* to regulate the licensing and practice of osteopathic medicine in the State of Arizona.
2. Respondent is a licensee of the Board and the holder of License No. 0959 for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT

3. Respondent conducted and / or documented an inadequate history and physical examination on patient J.B. and the ten patients whose charts were reviewed as part of this investigation.
4. Respondent conducted and /or documented inadequate appropriate preoperative laboratory data to proceed with surgery on these patients.
5. Respondent's testimony showed that he lacks understanding of the role of the history and physical examination.

CONCLUSION OF LAW

The conduct in paragraph 3 through 5 above constitutes unprofessional conduct as defined at:

A.R.S. § 32-1854:

- (6) "Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard," and

(40) "Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. License Number 0959, issued to Michael F. Ginder, D.O. ("Respondent") will be placed on **PROBATION** for 12 months, during which time Respondent shall comply with the terms and conditions of probation as set forth herein:
2. Within six (6) months of the effective date of this Order, Respondent shall complete eight (8) hours of Continuing Medical Education (CME) in history and physicals in cosmetic surgery approved by the Board or the Executive Director.
3. Respondent shall cooperate in chart reviews by the Board's staff or designee during the period of probation. The chart reviews will include, but not be limited to, review of appropriate history and physical examinations, including appropriate laboratory testing.

ISSUED this 31st day of August 2004.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: _____

Elaine LeTarte, Executive Director
9535 E. Doubletree Ranch Road
Scottsdale AZ 85258
(480) 657-7703

Notice of Right to Request a Review of Decision

The Respondent has the right to request a rehearing or review of the Board's decision in this matter pursuant to A.R.S. § 41-1092.09. The request for rehearing or review must be filed with the Board within thirty (30) days of service of this document. The Respondent must specify in detail and with particularity at least one of the eight grounds that apply to the request, as

required by A.A.C. R4-22-106(D). A request for rehearing or review shall be a pre-requisite prior to seeking judicial review pursuant to A.R.S. § 41-1092.09.

Mailed by U.S. certified mail this 31st day
of August, 2004 to:

Conrad Hernandez, Esq.
BLACK & PORTNEY, PLC Certified Mail # 7000 0520 0023 4778 1640
1850 N Central Avenue, Suite 620
Phoenix, AZ 85004

Michael F. Ginder, D.O.
7420 E Camelback Rd. Certified Mail # 7000 0520 0023 4778 1657
Phoenix, AZ 85257

Copies mailed/delivered to:

Blair Driggs, Assistant Attorney General
Office of the Attorney General
CIV/LES Division
1275 W. Washington
Phoenix AZ 85007

Patient J.B., complainant